

BEFORE THE FEDERAL ELECTION COMMISSION

**SENSITIVE**

In the Matter of )

MUR 5668 )

CAPITAL OUTDOOR, INC. )

CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

and are deemed inappropriate for review by the Alternative Dispute Resolution

Office are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 5668 as a low-rated matter. In this case, the allegations concerned the continued placement of billboards advertising for a defeated Congressional candidate beyond the general election. In light of the de minimis nature of the allegations and reviewing the merits of MUR 5668 in furtherance of the Commission's priorities and resources relative to other matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

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FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

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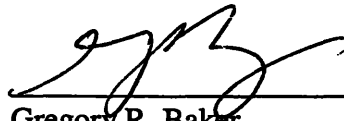
**RECOMMENDATION**

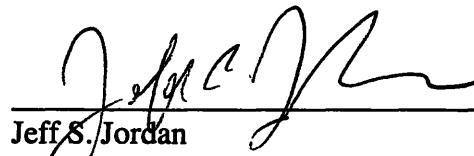
The Office of General Counsel recommends that the Commission dismiss MUR 5668, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

James A. Kahl  
Deputy General Counsel

11/15/05  
Date

BY:

  
\_\_\_\_\_  
Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

  
\_\_\_\_\_  
Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

Attachment:  
Narrative in MUR 5668

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5 **MUR 5668**

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7 **Complainant:** Gerald F. Meek as  
8 Chairman of the North Carolina Democratic Party  
9

10 **Respondents:** Creech for Congress &  
11 Oliver Wall, Treasurer  
12 Capital Outdoor, Inc.  
13

14 **Allegations:** The complainant alleges that Capital Outdoor, Inc., continued to post  
15 billboards for Creech for Congress after the candidate Billy Creech was defeated in the  
16 general election. Specifically, the continued placement of the billboards through May of  
17 2005, without any evidence that the committee paid for the advertising, constituted an in-  
18 kind prohibited contribution to Creech for Congress. The complainant noted that Billy  
19 Creech could be a candidate for Congress again in 2006.  
20

21 **Responses:** Capital Outdoor, Inc., responded that it followed the customary practice  
22 found in the outdoor advertising industry with respect to the advertising campaign for  
23 Creech for Congress. Additionally, only one billboard still contained the advertisement  
24 at issue when the complaint was filed in June 2005.  
25

26 **General Counsel's Note:** It should be noted that Billy Creech has not filed a statement  
27 of candidacy report or amended statement of organization with the Commission  
28 evidencing his intention to run for Congress in 2006.  
29

30 **Date complaint filed:** June 29, 2005  
31

32 **Responses filed:** August 10, 2005 (no response from Creech for Congress)

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